

**REMARKS**

This Amendment responds to the Office Action dated September 18, 2009, in which the Examiner rejected claims 1-22, 28-30 and 32-37 under 35 U.S.C. § 103.

Applicants respectfully request the Examiner considers the references cited in the Information Disclosure Statement filed October 20, 2009.

Claims 21 and 29 were rejected under 35 U.S.C. § 103 as being unpatentable over *Hite, et al.* (U.S. Patent No. 5,774,170) in view of *Bhagavath, et al.* (U.S. Patent No. 6,505,169).

Applicant respectfully traverses the Examiner's rejection of the claims under 35 U.S.C. § 103. The claims have been reviewed in light of the Office Action, and for reasons which will be set forth below, Applicant respectfully requests the Examiner withdraws the rejection to the claims and allows the claims to issue.

*Hite, et al.* appears to disclose programming comes from massive storage systems called servers. The server supplies signals to switches which route the requested video to the individual display device. The commercial choice switched to that location is based on a match of the CID (commercial identifier codes) determined for the location in the CID embedded in the commercial. Such matching may occur at the display site or at the head-end (column 7, lines 56-62).

Thus, *Hite, et al.* only discloses a head-end/server matching CID to a location to provide a commercial choice. Nothing in *Hite, et al.* shows, teaches or suggests selecting an advertisement image based on a maximum number of distribution times as claimed in claim 21 and 29. Rather, *Hite, et al.* merely discloses matching occurs at the head-end (server) to provide the commercial choice.

Additionally, since the storage system/servers in *Hite, et al.* are providing the programming to the viewers, Applicants respectfully point out that the servers are analogous to the media origination facility 300 shown in Figure 1. Applicants respectfully point out that the media servers in *Hite, et al.* do not contain an advertising image providing means generating a log which is history information, and an advertisement providing log database for storing the advertisement providing log as claimed in claims 21 and 29. Rather, as pointed out by the Examiner, the log is contained in the ad administration facility 100, but the ad administration facility in *Hite, et al.* does not receive selection information via stream distribution and selects advertising images based upon the selection information.

*Bhagavath, et al.* appears to disclose a content provider of the streaming media provides content metadata including URL of the streaming content, the target audience demographics and intervals (i.e. position/duration) when ads may be inserted into the media stream (column 6, lines 43-47).

Thus, *Bhagavath, et al.* merely discloses metadata including position/duration when ads may be inserted into the media stream. Nothing in *Bhagavath, et al.* shows, teaches or suggests selecting advertising image based on at least a maximum number of distribution times as claimed in claims 21 and 29. Rather, *Bhagavath, et al.* merely discloses providing metadata including position/duration when ads may be inserted.

Since nothing in *Hite, et al.* and *Bhagavath, et al.* show, teach or suggest selecting an advertising image based on at least a maximum number of times of distribution as claimed in claims 21 and 29, Applicant respectfully requests the Examiner withdraws the rejection to claims 21 and 29 under 35 U.S.C. § 103.

Claims 1-16, 18-20, 22, 28, 30 and 32-37 were rejected under 35 U.S.C. § 103 as being unpatentable over *Bar-El* (WO99/26415) in view of *Srinivasan, et al.* (U.S. Publication No. 2001/0023436) and *Bhagavath, et al.*

*Bar-El* appears to disclose in response to a received user profile, object storage unit 22 determines the group profile which most closely matches the user profile and outputs images associated with the matched group profile. Object storage unit 22 can update the user profile to mark which set of images the user has already seen. The video controller 24 selects a video sequence for each user in response to his request. The object storage unit 22 and video controller 24 both divide their output to the personalization module 26 associated with the user (page 11, line 14-page 12, line 9).

Thus, *Bar-El* merely discloses personalizing ads based upon a user profile in an object storage unit 22 and a video sequence selected by the user. Nothing in *Bar-El* shows, teaches or suggests selecting an advertising image based at least on a maximum number of times of distribution as claimed in claims 1, 10, 18-20, 22, 28, 30 and 36-37. Rather, *Bar-El* only discloses personalizing the output based upon a user profile and a video sequence selected by the user.

*Srinivasan, et al.* merely discloses when a subscriber orders a video presentation, the ad server notes the client ID matches the client ID with a user profile, controls a dynamic ad schedule, and determines the ads to be inserted [0204].

Thus, *Srinivasan, et al.* merely discloses matching an ad based upon a client ID and dynamic ad schedule. Nothing in *Srinivasan, et al.* shows, teaches or suggests selecting an advertisement based on at least a maximum number of times of distribution as claimed in claims

1, 10, 18-20, 22, 28 and 36-37. Rather, *Srinivasan, et al.* only discloses matching a client ID with a dynamic ad schedule.

As discussed above, *Bhagavath, et al.* merely discloses a content provider providing metadata including position and duration of intervals for inserting an ad. Nothing in *Bhagavath, et al.* shows, teaches or suggests selecting an advertisement based upon a maximum number of times of distribution as claimed in claims 1, 10, 18-20, 22, 28, 30 and 36-37.

A combination of *Bar-El, Srinivasan, et al.* and *Bhagavath, et al.* would merely suggest to personalize an ad based upon a user profile and video sequence requested by the user as taught by *Bar-El*, to match the client ID and the dynamic ad schedule as taught by *Srinivasan, et al.* and to include content provider metadata including intervals when the ad can be inserted as taught by *Bhagavath, et al.* Thus, nothing in the combination of the references shows, teaches or suggests selecting an advertising image based on at least a maximum number of times of distribution as claimed in claims 1, 10, 18-20, 22, 28, 30 and 36-37. Therefore, Applicant respectfully requests the Examiner withdraws the rejection to claims 1, 10, 18-20, 22, 28, 30 and 36-37 under 35 U.S.C. § 103.

Claims 2-9, 11-16 and 32-35 recite additional features. Applicant respectfully submits that claims 2-9, 11-16 and 32-35 would not have been obvious within the meaning of 35 U.S.C. § 103 over *Bar-El, Srinivasan, et al.* and *Bhagavath, et al.* at least for the reasons as set forth above. Therefore, Applicant respectfully requests the Examiner withdraws the rejection to claims 2-9, 11-16 and 32-35 under 35 U.S.C. § 103.

Claim 17 was rejected under 35 U.S.C. § 103 as being unpatentable over *Bar-El, Srinivasan, et al., Bhagavath, et al.* and further in view of *Hite, et al.*

Applicant respectfully traverses the Examiner's rejection of claim 17 under 35 U.S.C. § 103. The claim has been reviewed in light of the Office Action, and for reasons which will be set forth below, Applicant respectfully requests the Examiner withdraws the rejection to the claim and allows the claim to issue.

As discussed above, since nothing in the combination of *Bar-El, Srinivasan, et al.* and *Bhagavath, et al.* show, teach or suggest the primary features as discussed above, Applicant respectfully submits that the combination of the primary references with the secondary reference to *Hite, et al.* would not overcome the deficiencies of the primary references. Therefore, Applicant respectfully requests the Examiner withdraws the rejection to claim 17 under 35 U.S.C. § 103.

Thus, it now appears that the application is in condition for a reconsideration and allowance. Reconsideration and allowance at an early date are respectfully requested. Should the Examiner find that the application is not now in condition for allowance, Applicant respectfully requests the Examiner enters this Amendment for purposes of appeal.

**CONCLUSION**

If for any reason the Examiner feels that the application is not now in condition for allowance, the Examiner is requested to contact, by telephone, the Applicant's undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this case.

In the event that this paper is not timely filed within the currently set shortened statutory period, Applicant respectfully petitions for an appropriate extension of time. The fees for such extension of time may be charged to Deposit Account No. 50-0320.

In the event that any additional fees are due with this paper, please charge our Deposit Account No. 50-0320.

Respectfully submitted,

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